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STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

November 13, 2018

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

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NOV 14 2018

STATE AUDITORS OFFICE

RE: Petition approval request from Gerald Peterson regarding a proposed statutory amendment to Chapter 147 (2020-001)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Gerald Peterson on November 13, 2018.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Joshua D. Hawley
Sheri Hoffman
Trish Vincent

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Be it enacted by the people of the state of Missouri:

The annual franchise tax of Chapter 147.RSMo will be amended to be reinstated as follows with the revenue to be distributed to the Missouri Road Fund, to the higher education fund and to school districts with a 12% or more poverty level as directed by this amendment:

147.010 1. For the transitional year defined in subsection 4 of this section and each taxable year beginning on or after January 1, 1980, but before January 1, 2000, every corporation organized pursuant to or subject to chapter 351 or pursuant to any other law of this state shall, in addition to all other fees and taxes now required or paid, pay an annual franchise tax to the state of Missouri equal to one-twentieth of one percent of the par value of its outstanding shares and surplus if its outstanding shares and surplus exceed two hundred thousand dollars, or if the outstanding shares of such corporation or any part thereof consist of shares without par value, then, in that event, for the purpose contained in this section, such shares shall be considered as having a value of five dollars per share unless the actual value of such shares exceeds five dollars per share, in which case the tax shall be levied and collected on the actual value and the surplus if the actual value and the surplus exceed two hundred thousand dollars. If such corporation employs a part of its outstanding shares in business in another state or country, then such corporation shall pay an annual franchise tax equal to one-twentieth of one percent of its outstanding shares and surplus employed in this state if its outstanding shares and surplus employed in this state exceed two hundred thousand dollars, and for the purposes of sections 147.010 to 147.120, such corporation shall be deemed to have employed in this state that proportion of its entire outstanding shares and surplus that its property and assets employed in this state bears to all its property and assets wherever located. A foreign corporation engaged in business in this state, whether pursuant to a certificate of authority issued pursuant to chapter 351 or not, shall be subject to this section. Any corporation whose outstanding shares and surplus as calculated in this subsection does not exceed two hundred thousand dollars shall state that fact on the annual report form prescribed by the secretary of state. For all taxable years beginning on or after January 1, 2000, but ending before December 31, 2009, the annual franchise tax shall be equal to one-thirtieth of one percent of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed one million dollars. Any corporation whose outstanding shares and surplus do not exceed one million dollars shall state that fact on the annual report form prescribed by the director of revenue. For taxable years beginning on or after January 1, 2010, but before December 31, 2011, the annual franchise tax shall be equal to one-thirtieth of one percent of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed ten million dollars. For all taxable years beginning on or after January 1, 2010, but before December 31, 2015, any corporation whose outstanding shares and surplus do not exceed ten million dollars shall state that fact on the annual report form prescribed by the director of revenue. For all taxable years beginning on or after January 1, 2011, but before December 31, 2015, a corporation's annual tax liability under this chapter shall not exceed the amount of annual franchise tax liability of such corporation for the taxable year ending on or before December 31, 2010. If the corporation had no annual franchise tax liability under this chapter for the taxable year ending on or before December 31, 2010, because such corporation was not in existence or doing business in Missouri, the annual franchise tax for the first taxable year in which such corporation exists shall be determined by applying the applicable rate of tax provided under the provisions of this subsection to the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed ten million dollars, but in no case shall such corporation's tax liability for any subsequent taxable year exceed the amount of annual franchise tax liability of such corporation for the first full taxable year such corporation was in existence or doing business in Missouri. For taxable years beginning on or after January 1, 2012, the annual franchise tax shall be equal to the percentage rate prescribed in this subsection for the corresponding taxable year of the corporation's outstanding shares and surplus if the outstanding shares and surplus exceed the corresponding minimum threshold amount prescribed as follows:

- (1) For tax year 2012, the rate shall be one-thirty-seventh of one percent and the threshold amount shall be ten million dollars;
- (2) For tax year 2013, the rate shall be one-fiftieth of one percent and the threshold amount shall be ten million dollars;

(3) For tax year 2014, the rate shall be one-seventy-fifth of one percent and the threshold amount shall be ten million dollars;

(4) For tax year 2015, the rate shall be one-hundred-fiftieth of one percent and the threshold amount shall be ten million dollars;

(5) For tax years beginning on or after January 1, 2016, no annual franchise tax shall be imposed under this section until the tax year of 2021.

(6) For the tax year 2021, the rate shall be one percent and the threshold amount shall be ten million dollars and shall remain at that rate unless changed through a ballot of the citizens of the state of Missouri. The first quarterly estimated payments will be due on April 15th of 2021.

(7) Forty percent of the revenue of the annual franchise tax will go into the Missouri State Road Fund.

(8) Fifty percent of the revenue of the annual franchise tax will be to provide funds for the schools with a 12% or more poverty level of the citizens in the Missouri public-school system including pre-kindergarten, elementary and secondary education. The revenue generated from the franchise tax for this section will go to a dedicated fund that will be distributed to these schools with a 12% or more poverty level. Distribution will be to those schools that have met the poverty level in at least 5 of the previous 10 years. Distribution will be the total amount distributed equally based on the average daily attendance of all eligible schools. Each school receiving funds will investigate "Communities in Schools" (<https://www.communitiesinschools.org/>) and utilize funds if deemed appropriate for this program. To combat the "Pipeline to Prison", a penalty of 10% per year (limited to 30% and cancelled once conditions are met) will be imposed on those schools with a 10% or more minority student representation that does not have an ongoing program of strategic planning with Administrators and School Leaders on Restorative Justice, Discipline and behavior systems including:

- A Peace Room which serves as a hub for restorative practices and interventions including: Peace Circles, Mediations, Restorative Chats & Re-entry Circles
- A disciplinary intervention curriculum which teaches critical social-emotional & leadership skills
- Professional development for teachers and school staff

And for schools with potential of 20 pre-Kindergarten students, this penalty will be imposed for not providing every 4-year-old with high-quality, full-day pre-K.

(9) Ten percent of the revenue of the of the annual franchise tax will go to qualified students from families or individuals with an income below 12% poverty level as scholarships only for public Missouri colleges and universities. Scholarships amounts to each individual will include tuition and associated fees and books with an additional amount equal to that amount for their living expenses. Out of the same fund, scholarships will be available for any Missouri medical school or university providing medical training or Doctors of Medicine degrees. These scholarships will cover all tuition and fees, but only half of that amount for living expenses. These scholarships will also be available for any Missouri student who attended a school that served families with an income below the 12% level. Qualified applicants will be granted in order of receipt of application. At the end of each calendar year, any amounts not used for scholarships will be available to pay off student loans of teachers who have taught at schools serving areas with income areas with an income below 12% poverty level. The debts will be paid off beginning with those teachers who have taught the longest and then proceeding to the next longest serving teachers. Any funds not used from this fund will go into funds for higher education. The Missouri budget for elementary and secondary education will not be replaced by this bill. The elementary and secondary education budgets will remain as specified in Chapter 163. Failure of the legislatures to fulfill this

obligation will require the shortfall to be filled with funds from the Elected Officials, & General Assembly budget.

2. Sections 147.010 to 147.120 shall not apply to corporations not organized for profit, nor to corporations organized pursuant to the provisions of chapter 349, nor to express companies, which now pay an annual tax on their gross receipts in this state, nor to insurance companies, which are subject to an annual tax on their premium receipts in this state, nor to state, district, county, town and farmers' mutual companies now organized or that may be hereafter organized pursuant to any of the laws of this state, organized for the sole purpose of writing fire, lightning, windstorm, tornado, cyclone, hail and plate glass and mutual automobile insurance and for the purpose of paying any loss incurred by any member by assessment, nor to any mutual insurance corporation not having shares, nor to a company or association organized to transact business of life or accident insurance on the assessment plan for the purpose of mutual protection and benefit to its members and the payment of stipulated sums of moneys to the family, heirs, executors, administrators or assigns of the deceased member, nor to foreign life, fire, accident, surety, liability, steam boiler, tornado, health, or other kind of insurance company of whatever nature coming within the provisions of section 147.050 and doing business in this state, nor to savings and loan associations and domestic and foreign regulated investment companies as defined by Section 170 of the Act of Congress commonly known as the Revenue Act of 1942, nor to electric and telephone corporations organized pursuant to chapter 351 and chapter 392 prior to January 1, 1980, which have been declared tax-exempt organizations pursuant to Section 501(c) of the Internal Revenue Code of 1986, nor for taxable years beginning after December 31, 1986, to banking institutions subject to the annual franchise tax imposed by sections 148.010 to 148.110; but bank deposits shall be considered as funds of the individual depositor left for safekeeping and shall not be considered in computing the amount of tax collectible pursuant to the provisions of sections 147.010 to 147.120.

3. A corporation's taxable year for purposes of sections 147.010 to 147.120 shall be its taxable year as provided in section 143.271.

4. A corporation's transitional year for the purposes of sections 147.010 to 147.120 shall be its taxable year which includes parts of each of the years 1979 and 1980.

5. The franchise tax payable for a corporation's transitional year shall be computed by multiplying the amount otherwise due for that year by a fraction, the numerator of which is the number of months between January 1, 1980, and the end of the taxable year and the denominator of which is twelve. The franchise tax payable, if a corporation's taxable year is changed as provided in section 143.271, shall be similarly computed pursuant to regulations prescribed by the director of revenue.

6. All franchise reports and franchise taxes shall be returned to the director of revenue. All checks and drafts remitted for payment of franchise taxes shall be made payable to the director of revenue.

7. Pursuant to section 32.057, the director of revenue shall maintain the confidentiality of all franchise tax reports returned to the director.

8. The director of the department of revenue shall honor all existing agreements between taxpayers and the director of the department of revenue.

9. All subsections and all clauses of this statute, and the phrases, and the words within them, are severable. If any of the provisions within them are found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted or invalid, the remainder of those provisions shall remain valid and the application of such provisions shall not be affected thereby.